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*Pro Custom Solar LLC d/b/a Momentum Solar*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

THOMAS NIEMCZYK, individually and on  
behalf of a class of similarly situated individuals,

Plaintiff,

v.

PRO CUSTOM SOLAR LLC, D/B/A  
MOMENTUM SOLAR

Defendant.

Case No.: 2:19-cv-7846-ES-MAH

**PRETRIAL STIPULATED ORDER #1**

**(CUSTOMER LISTS)**

HERBERT WALTERS, RICK HILL, and  
BARRY WOLFORD, individually and on behalf  
of a class of similarly situated individuals,

Plaintiffs,

v.

PRO CUSTOM SOLAR LLC, D/B/A  
MOMENTUM SOLAR

Defendant.

Case No.: 2:22-cv-00247- ES-MAH

**PRETRIAL STIPULATED ORDER #1**

**(CUSTOMER LISTS)**

THIS MATTER having been presented to the Court by Schenck, Price, Smith & King, LLP, attorneys for defendant, as well as by Mazie Slater Katz & Freeman LLC and Bursor & Fisher, P.A., attorneys for plaintiffs; and the parties having consented to this Pre-Trial Stipulated Order relating to certain facts and evidence during trial and all prior proceedings; and for good cause shown;

IT IS STIPULATED AND ORDERED as follows:

1. Defendant waives any defense or argument based on consent or established business relationship (“EBR”) for any person on a List produced by Defendant in this litigation to date, only to the extent:

- a. such person is identified on plaintiffs’ putative class list(s); and
- b. such person’s telephone number was not provided by defendant on a List.

2. Nothing in this stipulation shall be construed to limit or otherwise affect defendant’s defenses or arguments on consent or EBR with respect to any individuals who are not on a List.

3. Momentum stipulates it will not argue that any current or former customers exist other than those included in the Lists that have been produced to date in this litigation.

4. The “List(s)” term refers to the following documents produced in discovery, as well as to all subsequent productions to date of same that included telephone numbers for certain customers: (1) List of Customers; (2) Copy of 2016 Master Sales List; (3) Copy of 2013-2015 Master Sales List; (4) Copy of Sales List 2016; and (5) Copy of Sales List 2016 With Phone.

5. Nothing in this stipulation shall be construed as addressing the soundness of the defenses referenced in Paragraph 2, as plaintiffs expressly dispute the soundness of those defenses.

SO ORDERED.

By: s/ Michael A. Hammer

Hon. Michael A. Hammer, U.S.M.J.

CONSENTING TO THE ENTRY OF THE ABOVE:

Date: 9/26/2023

**MAZIE SLATER KATZ &  
FREEMAN, LLC**

s/ Matthew Mendelsohn

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